IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6066 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ASHWINKUMAR K PARMAR

Versus

UNION OF INDIA

Appearance:

MR AKIL KURESHI for Petitioner.

MS PJ DAVAWALA for Respondents No.1 & 2.

MR PH PATHAK for Respondent No. 3

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE N.G.NANDI

Date of decision: 08/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

This writ petition is directed against the order passed by the Central Administrative Tribunal on 3rd of May 2001 in Original Application No. 46 of 2000. The only grievance which has been raised by the petitioner against the aforesaid order before us is that the CAT had only issued a notice as to why the Original Application should not be admitted. Thereafter no notice of admission of the OA was given and without issuing any further notice either with regard to the admission of the OA or for any further hearing, the O.A. was allowed. The notice in O.A. No. 46/2000, as was issued by the CAT for the date of 22nd March 2000 has been placed on record which shows that it was a notice to show as to why the application should not be admitted and such notice was made returnable on 22nd March 2000. True it is, that the CAT can decide any matter at admission stage, but if it is to be allowed at admission stage, a notice has to be given about the admission to the respondents. In the facts of the present case, no notice of the admission of the O.A., or for any further hearing of the matter, was given and the O.A. was finally decided against the present petitioner who was respondent No.3 before the CAT. The grievance of the petitioner, as has been raised before us, appears to be a legitimate grievance and the O.A. has to be decided by the CAT on merits after hearing and in presence of both the sides and the matter has to be remanded to the CAT for that purpose. We, accordingly, set aside the order dated 3rd of May 2001 passed by the CAT and remand the matter to the CAT for the purpose of deciding the Original Application No. 46/2000 afresh in accordance with law on merits after affording reasonable opportunity to the present petitioner. All the parties present before us agree that they shall remain present before the CAT on 3rd of September 2001 and no fresh notice shall now be required for the date of their appearance before the CAT on 3rd of September 2001. It will be open for the petitioner to file any reply before the CAT before 3rd of September 2001. It is the common case of the parties that the petitioner has not been relieved so far. Therefore it is ordered that till the CAT decides the remanded proceedings, the petitioner shall not be relieved from the service and his continuance in service shall be subject to the ultimate order that may be passed in the remanded proceedings. This Special Civil Application is partly allowed as above. Rule is accrodingly made absolute.

[M.R. Calla, J.]

rmr. [N.G. Nandi, J.]